

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ROBERT TRENT JONES II, INC. and  
ROBERT TRENT JONES LICENSING  
GROUP, LLC

Plaintiffs,

v.

GFSI, INC. d/b/a GEAR FOR SPORTS,  
INC.

Defendant.

Case No. 07-CV-04913-EDL

DECLARATION OF  
MR. TRENT JONES, JR.  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION

Date: January 8, 2008

Time: 2:00 p.m.

Judge: Elizabeth D. Laporte

**Declaration of Mr. Robert Trent Jones, Jr.**

1. My name is Robert Trent Jones, Jr. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

**The Robert Trent Jones Name and Brand**

2. For over seventy-five years, the Robert Trent Jones name, mark and brand has signified imaginative, well-crafted golf course designs.
3. I began my career by working for my father, Robert Trent Jones, Sr., (b. 1906 - d 2000) who was, and remains known as, a renowned golf course architect. In 1973, I continued the tradition set forth by my father and founded my own golf course design firm, which was one of the predecessors of the now preeminent golf course design firm known as Robert Trent Jones II, LLC ("RTJ2, LLC"). RTJ2, LLC is an innovative, modern golf course design firm with a global reputation for excellence and luxury.
4. I presently serve as the Chairman and Master Architect of RTJ2, LLC. I also am the principal owner of Plaintiff's Robert Trent Jones II, Inc. ("RTJ2, Inc.") and Robert Trent Jones Licensing Group, LLC ("RTJ Licensing"). Among other things, RTJ2, Inc. manages the rights to my name, trademarks, and rights of publicity ("RTJ Intellectual

Property"). RTJ2, Inc. has granted RTJ Licensing the right to sublicense the RTJ Intellectual Property.

5. I have been designing golf courses for over four decades. I have designed over 240 golf courses in 40 countries on six different continents. I also am a lifetime member and former President of the American Society of Golf Course Architects.
6. I am a former member and Chairman of the California Park & Recreation Commission. Since 1992, I have served as and am Emeritus Director of Refugees International. I am also a member of the California Golf Hall of Fame.
7. I have been called the father of environmental golf course design, as I "listen to the land" when designing a course and ensure my design fits with the natural landscape. My work and philosophy regarding golf course design has lead several of my courses to being recognized by Audubon International, the highest ecological and environmental protection standard in golf.
8. My golf course designs have received countless prestigious recognitions and accolades and they have consistently ranked among the best layouts throughout the world. A few of these recognitions and awards are:
  - *Golf Digest* ranked Prince Course in Kauai, Hawaii designed by my firm in the Top 10 of America's Greatest Public Courses for 2007 and was rated Hawaii's No. 1 course.
  - My firm was recently voted #1 Golf Architect in Asia for the third year in a row by the readers of Asia Golf Monthly.
  - The Osprey Meadows course in Idaho designed by my firm was awarded *Golf Digest's* Best New Public Course in 2006 for greens fees \$75 and over.
  - Chambers Bay in Pierce County, Washington, one of the more recent courses, has been awarded:
    - Best New Course in the World for 2007 by *Travel & Leisure Golf* capturing the course as "A *Brand* New Bay" (emphasis added)
    - Voted among *Golfweek's* Best New Courses: 2005-present

- Awarded Signature Status by Audubon International for reclamation of an abandoned rock quarry that became a trail system, a 20-acre park, an amphitheater and a water treatment facility on the property that will allow the course to use gray water exclusively
- In 2010, Celtic Manor's Wentwood Hills Championship Course (originally designed by my firm) will host the Ryder Cup (the first time that Wales has ever hosted this event).
- Crystal Springs Golf Course in Burlingame, CA was awarded *Golf Digest's* Environmental Leader Award.
- Rancho San Marcos Golf Course, Santa Barbara, CA was rated among the Top 10 Public Golf Courses by *Golf Magazine*.
- Woodlands Golf Course at Sunriver Resort, OR was rated One of the 100 Best Women-Friendly Courses by *Golf For Women*.
- Spanish Bay Resort Course, Pebble Beach, CA with restoration of sand dunes, was rated Best New Course in 1987.
- Harbour Plaza Golf Club, Dongguan City, Guangdong, China was ranked in the Top 10 Golf Courses in China by *Golf Digest China*.
- Professional and amateur golf championships for men and women have been played on over 100 of my courses.

Attached hereto as Exhibit A is a comprehensive list of the above awards and recognitions, as well as additional awards from the website: [www.rtg2.com](http://www.rtg2.com) and some supporting material.

9. Earlier this year, Business Week commissioned a survey and published an article, which found that real estate valuation on my golf courses appreciated by an average of 356% over a 10-year period of time. This is the highest rate of appreciation for the 10-year period. A copy of this article is attached as Exhibit B.
10. My work is truly international in nature and I have sought to develop my brand both in the United States and overseas for the past 40 years. Throughout the United States and



around the globe, the Robert Trent Jones name has become synonymous with experiencing the best the game of golf has to offer.

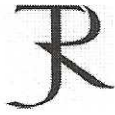

11. As part of my dedication to excellence and aiding golfers to achieve their best, I authored the nationally distributed book Golf by Design published by Little, Brown and Company. The book instructs golfers on how to lower their score by reading the features of a golf course.

**The Robert Trent Jones Brand is a High-End, Luxury Brand**

12. My golf course designs are featured at high-end, exclusive resorts, such as the Pebble Beach Inn and Links at Spanish Bay (California), Four Seasons Nevis (West Indies), the Grand Hyatt Kauai Resort and Spa (Hawaii), the Princeville Resort (Hawaii), the Four Seasons Golf Club Dubai Festival City (UAE), the St. Regis Resort Monarch Beach (California), the Hyatt Regency Coolom (Australia) and Europe's most exclusive golf club, Le Prince de Provence Golf Club (France).
13. Producers of high-end, luxury products have recognized the value and strength of the Robert Trent Jones name and sought to align their product with my brand. Some examples include:
  - a. Rolex has engaged me for an advertising campaign for its luxury watches. A recent advertisement appeared in Golf Digest's 2007 "America's 100 Greatest Courses and Best Designs on the Planet." A copy of this advertisement is attached as Exhibit C. Also attached as Exhibit D is a promotional video produced by Rolex, titled, "*The Spirit of Golf 2005*".
  - b. I appeared in the recent Titleist golf ball advertisements with John Cleese, an award winning comedian and actor, best known for being one of the founding members of the renowned comedy group Monty Python. DVD copies of these advertisements are attached as Exhibit E.
  - c. For the launch of the Lexus LS 430, Lexus contracted with me, as well as singer and Tony Award-winner Heather Headley, architect Richard Meier, and fashion designer Marc Jacobs for an advertisement that appeared in Condé Nast

publications such as *Vanity Fair*, *GQ*, *Gourmet*, *The New Yorker*, *Architectural Digest*, *Condé Nast Traveler* and *Bon Appétit*. A copy of this advertisement is attached as Exhibit F.

14. As a result of the long tradition of premier golf course design, the Robert Trent Jones brand is widely recognized by virtually every segment of the U.S. golfing population and I, through my companies, have built up an extraordinary amount of valuable goodwill in the Robert Trent Jones brand, which is truly a global and famous luxury brand.
15. In an effort to protect this investment and my name, my father and I applied to register a variety of trademarks and obtained U.S. trademark registrations. The below chart reflects several of these U.S. Registrations, now owed by RTJ II, Inc.

Mark	Reg. No.	Status	Reg. Date	Goods
ROBERT TRENT JONES	1,899,912	Incontestable	06/13/95	Men's accessories, namely jackets, shirts, pants, shorts, sweaters
	3,205,541	Registered	02/06/07	Clothing, namely shirts, sweaters, sweater vests, trousers, shorts, jackets, headwear
	3,128,905	Registered	08/15/06	Pants, shorts, sweaters, jackets, sweatshirts, vests, long-sleeved and short-sleeved golf shirts

16. I am committed to my brand and strive to ensure that any licensing of the Robert Trent Jones brand reflects and complements the premier status the brand has achieved.

### **The License with Gear for Sports**

17. In 2004, Gear for Sports, Inc. ("GFSI") approached me regarding the licensing of my name, registered trademarks, and rights of publicity ("Licensed Rights") for use in connection with a line of high quality golf apparel for:

distribution into the Green Grass golf pro shops; Green Grass golf tournaments with national recognition; specialty retailers the likes of In Celebration of Golf, and Mark Shale; high end specialty department stores the caliber of Nordstrom, Saks 5th Ave., and Neiman Marcus; high end destination resorts, hotels like the Ritz Carlton, The Breakers, or the Boca Raton Hotel; high end cruise ship retail shops on cruise lines comparable to Seaborne, or the World; and the corporate identity market for use in golf tournaments and customer or employee gifts.

Attached as Exhibit G is a copy of GFSI's July 13, 2004 ROBERT TRENT JONES Golf Apparel Business Plan ("2004 Proposed Plan").

18. After extensive discussion and negotiation, the parties finalized the License Agreement dated September 22, 2004. A true and correct copy of the License Agreement is attached as Exhibit H (selected portions redacted). The 2004 Proposed Plan was integral to my decision to license GFSI.

### **Gear for Sports' Sales of RTJ Apparel to Discount Stores**

19. It was, and remains, my view that Robert Trent Jones branded product should not be sold in discount stores, nor should any defective product be sold bearing the Licensed Rights. These sales negatively impact my brand, both with respect to apparel and my golf course design business, and do not reflect the reputation of my courses and the goodwill that I have worked so hard to develop. At no point did I provide GFSI with written consent to sell product to discount stores.
20. In late June 2007, I received the GFSI Marketing, Distribution, Financial and Quality Plan ("2007 GFSI Plan"). I was shocked to see that the top ten GFSI accounts for RTJ



Apparel included sales to discount stores, like Stein Mart and The Golf Warehouse. Specifically, the report stated:

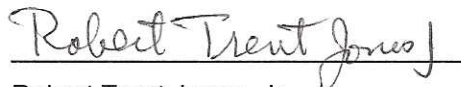
Three of the top ten are accounts which are considered discounters. The top account is Steinmart a discount retailer.

This was the first I was aware of any sale of RTJ Apparel to discount stores.

21. On or around July 3, 2007, I received a letter from Mr. Larry Graveel, President of GFSI. A copy of this letter is attached as Exhibit I. According to the letter, GFSI acknowledged that inventory of Robert Trent Jones branded product ended up in secondary market stores and stated "...having your [RTJ] brand in those stores in significant quantities over time is not a good thing for your brand image...."
22. On July 7, 2007, RTJ Licensing's attorney informed GFSI's attorney that the issue of sales to discount stores must be addressed.
23. On or around July 13, 2007, I received a letter from Mr. Larry Graveel of GFSI. A copy of this letter is attached as Exhibit J. According to the letter, GFSI admitted selling apparel with the Licensed Rights to discount retailers.
24. On July 15, 2007, RTJ Licensing's attorney again informed GFSI's attorney that the issue of sales to discount stores must be addressed.
25. On July 16, 2007, GFSI's attorney responded, acknowledging the sales by GFSI to discount stores, but claimed GFSI was authorized to do so under the License Agreement.
26. The parties met on July 17, 2007, in an attempt to resolve the matter, but were unable to come to an acceptable resolution. The meeting was abruptly ended when GFSI President, Mr. Larry Graveel, and GFSI's attorney walked out of the meeting without notice and declined to engage in any discussion of a RTJ Licensing settlement proposal.
27. Throughout the next month, RTJ Licensing made repeated settlement overtures to GFSI and its Board of Directors in an attempt to amicably resolve the dispute, but GFSI failed to respond substantively.

28. On August 28-29, 2007, RTJ Licensing initiated an audit of GFSI to determine the extent of the problem. RTJ Licensing's attorneys requested additional information to complete the audit on September 6, 2007; however, no substantive response was received to this request and, to date, GFSI has not provided this information. Although the audit remains incomplete due to GFSI's refusal to turn over the requested information, the audit did reveal additional and previously undisclosed sales by GFSI of RTJ Apparel to discount stores.
29. On September 21, 2007, Plaintiffs, reluctantly, filed a complaint against GFSI related to GFSI's sale of RTJ branded products to discount stores, among other breaches of the License Agreement. Plaintiffs' attorney sent a letter to GFSI's attorney advising GFSI of the complaint and reminding GFSI of our prior attempts to resolve this matter. The letter clearly indicates Plaintiffs' desire to resume settlement discussions "sparing both sides the substantial cost and distraction of litigation." A true and correct copy of the letter is attached hereto as Exhibit K. Once again, GFSI did not respond to these settlement overtures.
30. The sale of golf apparel bearing the Robert Trent Jones brand to discount stores damages my brand and the goodwill that I worked hard to develop. Likewise, the sale of damaged or defective products bearing the ROBERT TRENT JONES brand also negatively impacts my brand and the goodwill that I worked hard to develop.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed this 27th day of November, 2007, in Palo Alto, California.

  
Robert Trent Jones, Jr.